

REFERENCE TITLE: county island fire districts; agreement

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2145

Introduced by
Representative Biggs

AN ACT

AMENDING SECTIONS 48-261, 48-803 AND 48-805, ARIZONA REVISED STATUTES;
RELATING TO FIRE DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 48-261, Arizona Revised Statutes, is amended to
3 read:

4 48-261. District creation: procedures: notice: hearing:
5 determinations: petitions: definition

6 A. EXCEPT FOR A COUNTY ISLAND FIRE DISTRICT FORMED PURSUANT TO
7 SUBSECTION H OF THIS SECTION, a fire district, community park maintenance
8 district, sanitary district or hospital district for either a hospital or an
9 urgent care center shall be created by the following procedures:

10 1. Any person desiring to propose creation of a district shall prepare
11 and submit a district impact statement to the board of supervisors of the
12 county in which the district is to be located. If a proposed district is
13 located in more than one county, the impact statement shall be submitted to
14 the board of supervisors of the county in which the majority of the assessed
15 valuation of the proposed district is located. The boards of supervisors of
16 any other counties in which a portion of the district is to be located shall
17 provide information and assistance to the responsible board of supervisors.
18 If the person desiring to create a district pursuant to this section is
19 unable to complete the district impact statement, the board of supervisors
20 may assist in the completion of the impact statement if requested to do so,
21 provided the bond required in subsection C of this section is in an amount
22 sufficient to cover any additional cost to the county. The district impact
23 statement shall contain at least the following information:

24 (a) A legal description of the boundaries of the proposed district and
25 a detailed, accurate map of the area to be included in the district.

26 (b) An estimate of the assessed valuation within the proposed
27 district.

28 (c) An estimate of the change in the property tax liability, as a
29 result of the proposed district, of a typical resident of the proposed
30 district.

31 (d) A list and explanation of benefits that will result from the
32 proposed district.

33 (e) A list and explanation of the injuries that will result from the
34 proposed district.

35 (f) The names, addresses and occupations of the proposed members of
36 the district's organizing board of directors.

37 2. On receipt of the district impact statement, the board of
38 supervisors shall set a day, not fewer than thirty nor more than sixty days
39 from that date, for a hearing on the impact statement. The board of
40 supervisors ~~may~~, at any time prior to making a determination pursuant to
41 paragraph 4 of this subsection, MAY require that the impact statement be
42 amended to include any information that the board of supervisors deems to be
43 relevant and necessary.

44 3. Upon receipt of the district impact statement, the clerk of the
45 board of supervisors shall mail, by first class mail, written notice of the

1 statement, its purpose and notice of the day, hour and place of the hearing
2 on the proposed district to each owner of taxable property and each qualified
3 elector within the boundaries of the proposed district. The clerk of the
4 board of supervisors shall post the notice in at least three conspicuous
5 public places in the area of the proposed district and shall publish twice in
6 a daily newspaper of general circulation in the area of the proposed
7 district, at least ten days before the hearing, or, if no daily newspaper of
8 general circulation exists in the area of the proposed district, then at
9 least twice at any time before the date of the hearing, a notice setting
10 forth the purpose of the impact statement, the description of the area of the
11 proposed district and the day, hour and place of the hearing.

12 4. At the hearing called pursuant to paragraph 2 of this subsection,
13 the board of supervisors shall hear those who appear for and against the
14 proposed district and shall determine whether the creation of the district
15 will promote public health, comfort, convenience, necessity or welfare. If
16 the board of supervisors determines that the public health, comfort,
17 convenience, necessity or welfare will be promoted, it shall approve the
18 district impact statement and authorize the persons proposing the district to
19 circulate petitions as provided in this subsection. The order of the board
20 of supervisors shall be final, but if the request to circulate petitions is
21 denied, a subsequent request for a similar district may be refiled with the
22 board of supervisors after six months from the date of such denial.

23 5. Within fifteen days after receiving the approval of the board of
24 supervisors as prescribed by paragraph 4 of this subsection, the clerk of the
25 board shall determine the minimum number of signatures required for
26 compliance with paragraph 7, subdivision (d) of this subsection. After
27 making that determination, that number of signatures shall remain fixed,
28 notwithstanding any subsequent changes in voter registration records.

29 6. After receiving the approval of the board of supervisors as
30 provided in paragraph 4 of this subsection, the person proposing the district
31 may circulate and present petitions to the board of supervisors of the county
32 in which the district is located. All petitions circulated shall be returned
33 to the board of supervisors within one year from the date of the approval of
34 the board of supervisors pursuant to paragraph 4 of this subsection. Any
35 petition that is returned more than one year from that date is void.

36 7. The petitions presented pursuant to paragraph 6 of this subsection
37 shall comply with the provisions regarding petition form in section 48-265
38 and verification in section 48-266 and shall:

39 (a) At all times, contain a legal description of the boundaries of the
40 proposed district and a detailed, accurate map of the proposed district and
41 the names, addresses and occupations of the proposed members of the
42 district's organizing board of directors. No alteration of the proposed
43 district shall be made after receiving the approval of the board of
44 supervisors as provided in paragraph 4 of this subsection.

1 (b) If a petition of property owners, be signed by more than one-half
2 of the property owners in the area of the proposed district.

3 (c) If a petition of property owners, be signed by persons owning
4 collectively more than one-half of the assessed valuation of the property in
5 the area of the proposed district.

6 (d) If a petition of qualified electors, be signed by more than
7 one-half of the qualified electors within the boundaries of the proposed
8 district.

9 8. On receipt of the petitions, the board of supervisors shall set a
10 day, not fewer than ten nor more than thirty days from that date, for a
11 hearing on the petition.

12 9. Prior to the hearing called pursuant to paragraph 8 of this
13 subsection, the board of supervisors shall determine the validity of the
14 petitions presented.

15 10. At the hearing called pursuant to paragraph 8 of this subsection,
16 the board of supervisors, if the petitions are valid, shall order the
17 creation of the district. The board of supervisors shall enter its order
18 setting forth its determination in the minutes of the meeting, not later than
19 ten days from the day of the hearing, and a copy of the order shall be filed
20 in the county recorder's office. The order of the board of supervisors shall
21 be final, and the proposed district shall be created thirty days after the
22 board of supervisors votes to create the district. A decision of the board
23 of supervisors under this subsection is subject to judicial review under
24 title 12, chapter 7, article 6.

25 B. For the purpose of determining the validity of the petitions
26 presented pursuant to subsection A, paragraph 6 of this section:

27 1. Qualified electors shall be those persons qualified to vote
28 pursuant to title 16.

29 2. For the purposes of fulfilling the requirements of subsection A,
30 paragraph 7, subdivisions (b) and (c) of this section, property held in
31 multiple ownership shall be treated as if it had only one property owner, so
32 that the signature of only one of the owners of property held in multiple
33 ownership is required on the formation petition.

34 3. The value of property shall be determined as follows:

35 (a) In the case of property assessed by the county assessor, values
36 shall be the same as those shown on the last assessment roll of the county
37 containing such property.

38 (b) In the case of property valued by the department of revenue, the
39 values shall be those determined by the department in the manner provided by
40 law, for municipal assessment purposes. The county assessor and the
41 department of revenue, respectively, shall furnish to the board of
42 supervisors, within twenty days after such a request, a statement in writing
43 showing the owner, the address of each owner and the appraisal or assessment
44 value of properties contained within the boundaries of the proposed district
45 as described in subsection A of this section.

1 C. The board of supervisors may require of the person desiring to
2 propose creation of a district pursuant to subsection A, paragraph 1 of this
3 section a reasonable bond to be filed with the board at the start of
4 proceedings under this section. The bond shall be in an amount sufficient to
5 cover costs incurred by the county if the district is not finally organized.
6 County costs covered by the bond include any expense incurred from completion
7 of the district impact statement, mailing of the notice of hearing to
8 district property owners and electors, publication of the notice of hearing
9 and other expenses reasonably incurred as a result of any requirements of
10 this section. The requirements of this subsection do not apply to proposed
11 districts having fewer than one hundred qualified electors.

12 D. If a district is created pursuant to this section, the cost of
13 publication of the notice of hearing, the mailing of notices to electors and
14 property owners and all other costs incurred by the county as a result of the
15 provisions of this section shall be a charge against the district.

16 E. If a proposed district would include property located within an
17 incorporated city or town, in addition to the other requirements of
18 subsection A of this section, the board shall approve the creation and
19 authorize the circulation of petitions only if the governing body of the city
20 or town has by ordinance or resolution endorsed such creation.

21 F. Except as provided in section 48-2001, subsection A, the area of a
22 district created pursuant to this section shall be contiguous.

23 G. A district organized pursuant to this section shall have an
24 organizing board of directors to administer the affairs of the district until
25 a duly constituted board of directors is elected as provided in this title.
26 The organizing board shall have all the powers, duties and responsibilities
27 of an elected board. The organizing board shall consist of the three
28 individuals named in the district impact statement and the petitions
29 presented pursuant to subsection A of this section. If a vacancy occurs on
30 the organizing board, the remaining board members shall fill the vacancy by
31 appointing an interim member. Members of the organizing board shall serve
32 without compensation but may be reimbursed for actual expenses incurred in
33 performing their duties. The organizing board shall elect from its members a
34 chairman and a clerk.

35 H. FOR A COUNTY ISLAND FIRE DISTRICT ONLY, ANY PERSON MAY PETITION THE
36 BOARD OF SUPERVISORS FOR THE COUNTY IN WHICH THE COUNTY ISLAND FIRE DISTRICT
37 IS PROPOSED TO BE LOCATED. THE PETITIONS SHALL COMPLY WITH SECTION 48-265
38 REGARDING PETITION FORM AND SHALL BE VERIFIED AS PRESCRIBED IN SECTION
39 48-266. IF THE PETITIONS SUBMITTED ARE VERIFIED AS HAVING THE SIGNATURES OF
40 MORE THAN ONE-HALF OF THE OWNERS OF REAL PROPERTY LOCATED IN THE PROPOSED
41 DISTRICT, AFTER A HEARING, THE BOARD OF SUPERVISORS MAY CERTIFY THE
42 ESTABLISHMENT OF THE COUNTY ISLAND FIRE DISTRICT. THE COUNTY ISLAND FIRE
43 DISTRICT SHALL BE GOVERNED BY A FIVE MEMBER ELECTED DISTRICT BOARD PURSUANT
44 TO SECTION 48-803, BUT SHALL BE GOVERNED INITIALLY BY A BOARD APPOINTED BY
45 THE COUNTY BOARD OF SUPERVISORS FROM AMONG QUALIFIED ELECTORS OF THE COUNTY.

ON FORMATION OF THE DISTRICT, THE SURROUNDING CITY SHALL PROVIDE FIRE PROTECTION SERVICES AND EMERGENCY MEDICAL SERVICES TO THE DISTRICT. THE INITIAL APPOINTED BOARD SHALL SCHEDULE AN ELECTION TO BE HELD ON THE NEXT CONSOLIDATED ELECTION DATE AS PRESCRIBED BY SECTION 16-204. THAT ELECTION SHALL BE HELD AS OTHERWISE PROVIDED BY LAW. THE COUNTY ISLAND FIRE DISTRICT BOARD SHALL ALSO NOTIFY THE COUNTY BOARD OF SUPERVISORS OF THE COST OF PROVIDING FIRE PROTECTION SERVICES AND EMERGENCY MEDICAL SERVICES FOR EACH HOUSEHOLD OR OTHER STRUCTURE IN THE DISTRICT.

~~H.~~ I. For the purposes of this section:

1. Assessed valuation does not include the assessed valuation of property that is owned by a county.

2. Property owner does not include a county AND IN THE CASE OF MULTIPLE OWNERSHIP OF A SINGLE PARCEL OF PROPERTY, ANY ONE PROPERTY OWNER CONSTITUTES THE ENTIRE OWNERSHIP INTEREST.

J. FOR THE PURPOSES OF THIS SECTION, "COUNTY ISLAND FIRE DISTRICT" MEANS A FIRE DISTRICT THAT IS FORMED OR PROPOSED TO BE FORMED ONLY IN THOSE UNINCORPORATED AREAS OF A SINGLE COUNTY THAT ARE SURROUNDED BY A SINGLE CITY OR THAT ARE SURROUNDED BY A SINGLE CITY IN COMBINATION WITH OTHER PUBLICLY OWNED OR SOVEREIGN LAND.

Sec. 2. Section 48-803, Arizona Revised Statutes, is amended to read:

~~48-803.~~ District administered by a district board

A. In a district which the board of supervisors estimates has a population of fewer than four thousand inhabitants, the district board may consist of three or five members. In a district which the board of supervisors estimates has a population of four thousand or more inhabitants, the district board shall consist of five members, AND FOR A COUNTY ISLAND FIRE DISTRICT FORMED PURSUANT TO SECTION 48-261, SUBSECTION H, THE BOARD SHALL CONSIST OF FIVE MEMBERS. The estimate of population by the board of supervisors is conclusive and shall be based on available census information, school attendance statistics, election or voter registration statistics, estimates provided by state agencies or the county assessor, or other information as deemed appropriate by the board of supervisors. If the board of supervisors determines, at any time prior to one hundred twenty days before the next regular scheduled election for members of a district board, that the population of a fire district administered by a district board consisting of three members exceeds four thousand inhabitants, estimated as provided in this section, the board of supervisors shall order an increase in the number of members of the district board. The increase is effective for the election of two additional members at the next regular election of members of the district board.

B. If a vacancy occurs on the district board other than from expiration of a term, the remaining board members shall fill the vacancy by appointment of an interim member. If the entire board resigns or for any reason cannot fulfill its duties, the board of supervisors shall appoint an administrator to administer the district with the same duties and obligations

1 of the elected board. If the board of supervisors fails to appoint an
2 administrator within thirty days, a special election shall be held to fill
3 the vacancies on the fire district board.

4 C. Members of the district board shall serve without compensation, but
5 may be reimbursed for actual expenses incurred in performing duties required
6 by law.

7 D. **EXCEPT FOR A COUNTY ISLAND FIRE DISTRICT FORMED PURSUANT TO SECTION**
8 **48-261, SUBSECTION H,** the board shall appoint or hire a fire chief.

9 E. The board shall elect from its members a chairman and a clerk.

10 F. Of the members first elected to boards consisting of three members,
11 the two people receiving the first and second highest number of votes shall
12 be elected to four-year terms, and the person receiving the third highest
13 number of votes shall be elected to a two-year term. Of the members first
14 elected to boards consisting of five members, the three people receiving the
15 first, second and third highest number of votes shall be elected to four-year
16 terms, and the two people receiving the fourth and fifth highest number of
17 votes shall be elected to two-year terms. Thereafter, the term of office of
18 each board member shall be four years from the first day of the month next
19 following such member's election.

20 Sec. 3. Section 48-805, Arizona Revised Statutes, is amended to read:

21 **48-805. Fire district; powers and duties**

22 A. A fire district, through its board or elected chief and
23 secretary-treasurer, shall:

24 1. Hold public meetings at least once each calendar month.

25 2. Prepare an annual budget containing detailed estimated expenditures
26 for each fiscal year which shall clearly show salaries payable to employees
27 of the district, including the elected or appointed chief. The budget shall
28 be posted in three public places and published in a newspaper of general
29 circulation in the district thirty days prior to a public hearing at a
30 meeting called by the board or elected chief to adopt the budget. Copies of
31 the budget shall also be available to members of the public upon written
32 request to the district. Following the public hearing, the district board or
33 elected chief and secretary-treasurer shall adopt a budget.

34 3. Determine the compensation payable to district personnel.

35 4. Require probationary employees in a paid sworn firefighter
36 position, a reserve firefighter position or a volunteer firefighter position
37 to submit a full set of fingerprints to the fire district. The fire district
38 shall submit the fingerprints to the department of public safety for the
39 purpose of obtaining a state and federal criminal records check pursuant to
40 section 41-1750 and Public Law 92-544. The department of public safety may
41 exchange this fingerprint data with the federal bureau of investigation.

42 B. A fire district, through its board or elected fire chief and
43 secretary-treasurer, may:

44 1. Employ any personnel and provide services deemed necessary for fire
45 protection, for preservation of life and for carrying out its other powers

1 and duties, including providing ambulance transportation services when
2 authorized to do so pursuant to title 36, chapter 21.1, article 2, but a
3 member of a district board shall not be an employee of the district.

4 2. Construct, purchase, lease, lease-purchase or otherwise acquire the
5 following or any interest therein and, in connection with such construction
6 or other acquisition, purchase, lease, lease-purchase or grant a lien on any
7 or all of its present or future property, including:

8 (a) Apparatus, water and rescue equipment, including ambulances and
9 equipment related to any of the foregoing.

10 (b) Land and buildings with equipment and furnishings to house
11 equipment and personnel necessary for fire protection and preservation of
12 life.

13 3. Finance the acquisition of property as provided in this section and
14 costs incurred in connection with the issuance of bonds as provided in
15 section 48-806. Bonds shall not be issued without the consent of a majority
16 of the electors of the district voting at an election held for that purpose.
17 For the purposes of an election held under this paragraph, all persons who
18 are eligible to vote in fire district elections under section 48-802 are
19 eligible to vote.

20 4. Assist the state fire marshal in the enforcement of fire protection
21 standards of this state within the fire district, including enforcement of a
22 nationally recognized fire code when expressly authorized by the state fire
23 marshal.

24 5. After the approval of the qualified electors of the fire district
25 voting at a regular district election or at a special election called for
26 such purpose by the district board or the elected chief and
27 secretary-treasurer, as appropriate, or at any election held in the county
28 which encompasses the fire district, adopt the _____ fire code, which is
29 a nationally recognized fire code approved by the state fire marshal. The
30 words appearing upon the ballots shall be "Should _____ fire
31 district adopt the _____ fire code, which is a nationally recognized
32 fire code approved by the state fire marshal--yes", "Should _____
33 fire district adopt the _____ fire code, which is a nationally
34 recognized fire code approved by the state fire marshal--no". Such code
35 shall be enforced by the county attorney in the same manner as any other law
36 or ordinance of the county. Any inspection or enforcement costs are the
37 responsibility of the fire district involved. The district shall keep on
38 file such code which shall be open to public inspection for a period of
39 thirty days prior to any election for the purpose of adopting a fire code.

40 6. Amend or revise the adopted fire code with the approval of the
41 state fire marshal and after a hearing held pursuant to posted and published
42 notice as prescribed by subsection A, paragraph 2 of this section. The
43 district shall keep three copies of the adopted code, amendments and
44 revisions on file for public inspection.

1 7. Enter into an agreement procuring the services of an organized
2 private fire protection company or a fire department of a neighboring city,
3 town, district or settlement without impairing the powers granted to it.

4 8. Contract with a city or town for fire protection services for all
5 or part of the city or town area until the city or town elects to provide
6 regular fire department services to the area.

7 9. Retain a certified public accountant to perform an annual audit of
8 district books.

9 10. Retain private legal counsel.

10 11. Accept gifts, contributions, bequests and grants and comply with
11 any requirements of such gifts, contributions, bequests and grants not
12 inconsistent with this article.

13 12. Enter into contracts and execute any agreements or instruments and
14 do any other act necessary or appropriate to carry out its purposes.

15 13. Appropriate and expend annually such monies as are necessary for
16 the purpose of fire districts belonging to and paying dues in the Arizona
17 fire district association.

18 14. Adopt resolutions establishing fee schedules for providing fire
19 protection services and services for the preservation of life, including
20 emergency fire and emergency medical services, plan reviews, standby charges,
21 fire cause determination, users' fees, facilities benefit assessments or any
22 other fee schedule that may be required.

23 15. After the approval of the qualified electors of the fire district
24 voting at a regular district election or at a special election called for
25 such purpose by the board of supervisors or at any election held in the
26 county which encompasses the fire district, change its name.

27 C. The chairman and clerk of the district board or their respective
28 designees or the elected chief and secretary-treasurer, as applicable, shall
29 draw warrants on the county treasurer for money required to operate the
30 district in accordance with the budget and, as so drawn, the warrants shall
31 be sufficient to authorize the county treasurer to pay from the fire district
32 fund.

33 D. The district shall not incur any debt or liability in excess of
34 taxes levied and to be collected and the money actually available and
35 unencumbered at the time in the fund, except as provided in subsection B,
36 paragraph 2 of this section and in sections 48-806 and 48-807.

37 E. FOR A COUNTY ISLAND FIRE DISTRICT FORMED PURSUANT TO SECTION
38 48-261, SUBSECTION H, THE DISTRICT IS AUTHORIZED ONLY TO RECEIVE FIRE
39 PROTECTION SERVICES AND EMERGENCY MEDICAL SERVICES FROM THE ADJACENT CITY
40 GOVERNMENT. A COUNTY ISLAND FIRE DISTRICT HAS NO AUTHORITY TO PROVIDE FIRE
41 PROTECTION SERVICES OR EMERGENCY MEDICAL SERVICES BY ANY METHOD OTHER THAN AS
42 PRESCRIBED BY THIS SUBSECTION. THE CITY SHALL CHARGE A REASONABLE RATE TO
43 THE COUNTY ISLAND FIRE DISTRICT TO RECOVER THE COSTS OF THE SERVICE AND THE
44 DISTRICT BOARD MAY ASSESS AND LEVY A SECONDARY PROPERTY TAX PURSUANT TO THIS

1 ARTICLE TO PAY FOR THE COSTS OF THE SERVICE. THE AMOUNT CHARGED BY THE CITY
2 IS LIMITED AS FOLLOWS:

3 1. FOR EACH RESIDENCE OR COMMERCIAL BUILDING, AN AMOUNT TO BUY INTO
4 SERVICE FROM THE CITY. THE AMOUNT CHARGEABLE PURSUANT TO THIS PARAGRAPH IS
5 LIMITED TO THE PORTION OF ANY NEW HOME IMPACT FEE BEING CHARGED BY THAT CITY
6 THAT IS DESIGNATED FOR FIRE PROTECTION, AND THAT AMOUNT SHALL BE DEFERRED AND
7 PAYABLE OVER A THREE YEAR PERIOD.

8 2. IF ADDITIONAL INFRASTRUCTURE IS REASONABLY NECESSARY TO PROVIDE
9 SERVICE TO THE COUNTY ISLAND FIRE DISTRICT, THE CITY MAY CHARGE A FEE OF UP
10 TO SEVENTY-FIVE DOLLARS PER YEAR FOR EACH HOUSEHOLD OR OTHER STRUCTURE FOR UP
11 TO FIVE YEARS.

12 3. AN OPERATION AND MAINTENANCE CHARGE THAT IS DETERMINED BY
13 CALCULATING THE ANNUAL OPERATION AND MAINTENANCE CHARGE FOR THE CITY AND
14 DIVIDING THAT AMOUNT BY THE SUM OF THE NUMBER OF HOUSEHOLDS AND COMMERCIAL
15 BUILDINGS LOCATED IN THE CITY AND THE NUMBER OF HOUSEHOLDS AND COMMERCIAL
16 BUILDINGS LOCATED IN THE COUNTY ISLAND FIRE DISTRICT.

17 4. ADMINISTRATIVE COSTS OF UP TO FIVE PER CENT OF THE ANNUAL OPERATING
18 AND MAINTENANCE COSTS PER YEAR BUT NOT MORE THAN TWENTY-FIVE DOLLARS PER
19 HOUSEHOLD OR COMMERCIAL BUILDING PER YEAR.

20 F. UNTIL FORMATION OF A COUNTY ISLAND FIRE DISTRICT IS CERTIFIED BY
21 THE COUNTY BOARD OF SUPERVISORS, A CITY FIRE SERVICE PROVIDER IS NOT LIABLE
22 FOR ANY FIRE PROTECTION SERVICES FOR ANY AREAS OUTSIDE OF THE CITY'S
23 JURISDICTION AND A CITY HAS NO LEGAL OBLIGATION TO PROVIDE FIRE PROTECTION
24 SERVICES TO RESIDENTS OF THE COUNTY THAT ARE NOT LOCATED WITHIN THE
25 BOUNDARIES OF THE CITY.

26 ~~E.~~ G. The county attorney may advise and represent the district when
27 in the county attorney's judgment such advice and representation are
28 appropriate and not in conflict with the county attorney's duties under
29 section 11-532. If the county attorney is unable to advise and represent the
30 district due to a conflict of interest, the district may retain private legal
31 counsel or may request the attorney general to represent it, or both.

32 Sec. 4. Emergency

33 This act is an emergency measure that is necessary to preserve the
34 public peace, health or safety and is operative immediately as provided by
35 law.